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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/816,445	03/31/2004	Frank Oliver Hoffmann	34874-096 UTIL	9237
64280 7590 05/19/2009 MINTZ, LEVIN, COHN, FERRIS, GLOVSKY & POPEO, P.C. ONE FINANCIAL CENTER			EXAMINER	
			MCLEOD, MARSHALL M	
BOSTON, MA 02111			ART UNIT	PAPER NUMBER
			2457	
			MAIL DATE	DELIVERY MODE
			05/19/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)					
Office Action Comments	10/816,445	HOFFMANN ET AL.					
Office Action Summary	Examiner	Art Unit					
	MARSHALL MCLEOD	2457					
The MAILING DATE of this communication app Period for Reply	pears on the cover sheet with the c	orrespondence address					
A SHORTENED STATUTORY PERIOD FOR REPL WHICHEVER IS LONGER, FROM THE MAILING D - Extensions of time may be available under the provisions of 37 CFR 1.1 after SIX (6) MONTHS from the mailing date of this communication. - If NO period for reply is specified above, the maximum statutory period - Failure to reply within the set or extended period for reply will, by statute Any reply received by the Office later than three months after the mailin earned patent term adjustment. See 37 CFR 1.704(b).	ATE OF THIS COMMUNICATION (36(a). In no event, however, may a reply be tin will apply and will expire SIX (6) MONTHS from e, cause the application to become ABANDONE	N. nely filed the mailing date of this communication. D (35 U.S.C. § 133).					
Status							
1)⊠ Responsive to communication(s) filed on <u>13 F</u>	ehruary 2009						
	s action is non-final.						
<i>i</i>	Since this application is in condition for allowance except for formal matters, prosecution as to the merits is						
,—	closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213.						
Disposition of Claims							
4) Claim(s) <u>1-16</u> is/are pending in the application.							
·—	4a) Of the above claim(s) is/are withdrawn from consideration.						
5) Claim(s) is/are allowed.							
6) Claim(s) is/are rejected.							
· · · · · · · · · · · · · · · · · · ·	7) Claim(s) is/are objected to. 8) Claim(s) <u>1-16</u> are subject to restriction and/or election requirement.						
o) Claim(s) 1-70 are subject to restriction and/or	election requirement.						
Application Papers							
9)☐ The specification is objected to by the Examiner.							
10)☐ The drawing(s) filed on is/are: a)☐ acc	epted or b) \square objected to by the I	Examiner.					
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).							
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).							
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.							
Priority under 35 U.S.C. § 119							
 12) Acknowledgment is made of a claim for foreign a) All b) Some * c) None of: 1. Certified copies of the priority document 2. Certified copies of the priority document 3. Copies of the certified copies of the priority application from the International Burea * See the attached detailed Office action for a list 	ts have been received. ts have been received in Applicati rity documents have been receive u (PCT Rule 17.2(a)).	on No ed in this National Stage					
Attachment(s) 1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date	4) Interview Summary Paper No(s)/Mail Da 5) Notice of Informal F 6) Other:	ate					

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DETAILED ACTION

1. Claims 1-16 are currently pending in this application. After further review of the amended claims a new Election/Restriction must be made in light of the amendments.

Election/Restrictions

- 2. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - Claims 1-4 and 13-16are drawn to an apparatus/method for Computer network monitoring, classified in class 709, subclass 224.
 - II. Claims 5-8 are drawn to Computer-to-computer handshaking, classified in class 709, subclass 237.
 - III. Claim 9 are drawn to Computer-to-computer Data Routing, classified in class 709, subclass 238.
 - IV. Claim 10 are drawn to Network resources access controlling, classified in class 709, subclass 229.
 - V. Claim 11-12 are drawn to Computer-to-computer data transfer regulating, classified in class 709, subclass 232
- 3. The inventions are distinct, from each other because of the following reasons:

 Invention I, II, III, IV and V are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of being used together and they have different

designs, modes of operation, and effects (MPEP § 802.01 and § 806.06). In the instant case, **invention (I)** is drawn to a method for transporting a message and monitoring the route of the message. While **invention (II)** is drawn to a method sending a message comprised of different parts. While **invention (III)** is drawn to a method for routing a message based on the sender identification. While **invention (IV)** is drawn to a method for accessing a networks specific resources such as error processing, acknowledgment handling, etc. While **invention (V)** is drawn to a method for regulating how the message is transferred in the network.

Because, these invention are distinct and the search required for group I, II, III, IV and V are different, the restriction for examination purposes as indicated is proper.

- 4. Restriction for examination purposes as indicated is proper because all these inventions listed in this action are independent or distinct for the reasons given above and there would be a serious search and examination burden if restriction were not required because one or more of the following reasons apply:
 - (a) the inventions have acquired a separate status in the art in view of their different classification;
 - (b) the inventions have acquired a separate status in the art due to their recognized divergent subject matter;
 - (c) the inventions require a different field of search (for example, searching different classes/subclasses or electronic resources, or employing different search queries);

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- (d) the prior art applicable to one invention would not likely be applicable to another invention;
- (e) the inventions are likely to raise different non-prior art issues under 35 U.S.C. 101 and/or 35 U.S.C. 112, first paragraph.
- 5. Applicant is advised that the reply to this requirement to be complete must include (i) an election of a invention to be examined even though the requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse. Traversal must be presented at the time of election in order to be considered timely. Failure to timely traverse the requirement will result in the loss of right to petition under 37 CFR 1.144. If claims are added after the election, applicant must indicate which of these claims are readable on the elected invention.

If claims are added after the election, applicant must indicate which of these claims are readable upon the elected invention.

Should applicant traverse on the ground that the inventions are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARSHALL MCLEOD whose telephone number is (571)270-

3808. The examiner can normally be reached on Monday - Thursday 6:30 a.m-4:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571) 272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ramy M Osman/ Primary Examiner, Art Unit 2457

Marshall McLeod Art Unit 2457 5/14/2009